

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

**HAZEL M. ROBY, as Administratrix of)
the Estate of RONALD TYRONE)
ROBY, Deceased,)**

Plaintiff,)

v.)

CIVIL ACTION NO.: 2:05CV494-T

BENTON EXPRESS, INC., et al,)

Defendants.)

MOTION TO COMPEL

COMES NOW the Defendant, Benton Express, Inc., and, pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1, moves the Court to enter an Order compelling the Plaintiff to respond to Defendant's First Interrogatories and First Request for Production. In support thereof, Defendant states as follows:

1. Defendant served its First Interrogatories and First Request for Production on Plaintiff on June 6, 2005. Pursuant to Local Rule 37.1, copies of said discovery are attached hereto as Exhibit 1.

2. By stipulation of the parties, responses to this discovery was due by August 1, 2005. [See "Report of Parties' Planning Meeting," ¶ 3].

3. Defendant has in good faith attempted to resolve this matter by correspondence. [See Letter of August 31, 2005, a copy of which is attached hereto as Exhibit 2]. Defendant has not received any response to this correspondence from the Plaintiff.

4. The Plaintiff's deposition is scheduled for September 23, 2005. Defendant needs the Plaintiff's discovery responses well in advance of her deposition to be adequately prepared for the deposition.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests the Court to enter an Order compelling the Plaintiff to provide Defendant with responses to the discovery that is the subject of this motion by no later than September 16, 2005.

Respectfully submitted,

s/ Gregory A. Brockwell
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following on this the 8th day of September, 2005:

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